

1 **WO**

2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
8  
9

10 Lee Perkins,

11 Plaintiff,

12 v.

13 Dora B. Schriro, et al.

14 Defendants.

No. CV 04-1746-PHX-PGR (CRP)

ORDER

15  
16 Currently pending before the Court is the Plaintiff's Motion for the Court to  
17 Reconsider its Order of July 28, 2005 Dismissing Plaintiff's Complaint Under Rule 12(b)(6)  
18 (Doc. 21). The Plaintiff, pro se, urges the Court to reevaluate its decision of July 28, 2005  
19 (Doc. 20) dismissing Plaintiff's complaint due to his failure to state a claim within the  
20 applicable statute of limitations. The Plaintiff contends that the Court committed a clear  
21 error of law and in facts in calculating the statute of limitations resulting in a decision that  
22 is manifestly unjust. The Court now rules on the Plaintiff's motion.

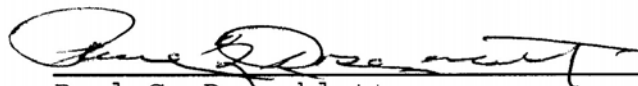
23 Rule 60(b) permits reconsideration of a district court order based on: (1) mistake,  
24 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due  
25 diligence could not have been discovered in time to move for a new trial under Rule 59; (3)  
26 fraud, misrepresentation, or misconduct by an adverse party; (4) the judgment is void; (5) the  
27 judgment has been satisfied, released or discharged, or a prior judgment upon which it is  
28 based has been reversed or otherwise vacated, or it is no longer equitable that the judgment

1 should have prospective application; or (6) any other reason justifying relief from the  
2 operation of judgment. See Fed. R. Civ. P. 60(b)(1)-(b)(6). Generally, a motion for  
3 reconsideration under Rule 60 should not be granted unless: (1) there has been an intervening  
4 change of controlling law; (2) newly discovered evidence has come to light; or (3) it is  
5 necessary to correct a clear error or prevent manifest injustice. School District No. 1J v.  
6 AcandS, Inc., 5 F.3d 1255, 1262 (9<sup>th</sup> Cir. 1993). Furthermore, a rule 60(b) motion must be  
7 brought within a reasonable time, which cannot be more than one year if the motion is based  
8 on mistake, newly discovered evidence, or fraud. See Fed. R. Civ. P. 60(b).

9 The Court finds the Plaintiff's arguments for reconsideration merely reiterate his  
10 arguments in response to the Defendants' Motion to Dismiss. Because he has not shown that  
11 the Court erred in dismissing his complaint of statute of limitations grounds, that new  
12 evidence has come to light, or that there has been an intervening change in the law, see  
13 ACandS, 5 F.3d at 1262, reconsideration pursuant to Rule 60(b) is inappropriate.  
14 Accordingly,

15 IT IS ORDERED that the Plaintiff's Motion for the Court to Reconsider its Order of  
16 July 28, 2005 Dismissing Plaintiff's Complaint Under Rule 12(b)(6) is DENIED.

17 DATED this 31st day of March, 2006.

18  
19   
20 Paul G. Rosenblatt  
21 United States District Judge  
22  
23  
24  
25  
26  
27  
28